

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JOSH COHEN,

Plaintiff,

-against-

23 **CIVIL** 10359 (JAV)

**JUDGMENT**

ACTION NETWORK, AFL-CIO, ACTION  
SQUARED, NATHAN WOODHULL, CIVITECH,  
DEMOCRATIC NATIONAL COMMITTEE,  
MOVEON.ORG, NETROOTS NATION,

Defendants.  
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated May 23, 2025, a statement noting the death of plaintiff having been served through the ECF system and filed in this matter on February 20, 2025 (ECF No. 85), and 90 days having elapsed without any motion for substitution having been filed, this action is dismissed pursuant to Rule 25(a)(1). Defendant has moved for dismissal with prejudice. ECF Nos. 86, 88. The Court of Appeals for the Second Circuit has held that it is unnecessary for the person who files a suggestion of death on the record to identify the successor or legal representative of the deceased party. *Unicorn Tales, Inc. v. Banerjee*, 138 F.3d 467, 470 (2d Cir.1998). In this circumstance, however, dismissal without prejudice is appropriate. See *Miller v. DCM, Inc.*, No. 04 Civ.1931 (JGK), 2007 WL 959509, at \*1 (S.D.N.Y. Mar. 15, 2007) (without prejudice dismissal appropriate where it is unclear if a legal successor exists). Judgment is entered dismissing this case without prejudice; accordingly, the case is closed.

**Dated:** New York, New York

May 27, 2025

**TAMMI M. HELLWIG**

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**Clerk of Court**

**BY:**

*K. mango*

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**Deputy Clerk**